

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

S.S. WHITE BURS, INC.)	
a New Jersey Corporation, and)	
TEMPLE UNIVERSITY-)	Civil Action No. 02-cv-3656
OF THE COMMONWEALTH)	
SYSTEM OF HIGHER EDUCATION,)	Hon. Bruce Kauffman, U.S.D.J.
a non-profit corporation of the)	
Commonwealth of Pennsylvania,)	Filed on June 7, 2002
)	
Plaintiffs,)	
v.)	
)	<u>JURY TRIAL DEMANDED</u>
NEO-FLO, INC.)	
d/b/a MICROCOPY)	
a California corporation,)	
)	
Defendant.)	

COMPLAINT

Plaintiffs, S.S. White Burs, Inc. and Temple University - Of The Commonwealth System of Higher Education, state as follows in support of their complaint for patent infringement against Neo-Flo, Inc. d/b/a Microcopy.

Parties

1. Plaintiff S. S. White Burs, Inc. ("S.S. White") is a New Jersey corporation with its principal place of business in Lakewood, New Jersey.

2. Plaintiff Temple University – Of The Commonwealth System of Higher Education ("Temple University") is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania and having a principal place of business in Philadelphia, Pennsylvania.

3. Defendant Neo-Flo, Inc. ("Neo-Flo") d/b/a Microcopy is a California corporation with its principle place of business in Kennesaw, Georgia. At all times relevant to this action

Neo-Flo did do and transacted business in the Commonwealth of Pennsylvania and in the judicial district comprising the Eastern District of Pennsylvania.

Jurisdiction and Venue

4. This action arises under the Acts of Congress relating to patents, Title 35 U.S.C. §271 and §§281-285.

5. This Court has subject matter jurisdiction under the provision of Title 28 U.S.C. §1338(a).

6. Personal jurisdiction and venue are proper in this district under the provisions of Title 28 U.S.C. §§1391(c) and 1400(b).

Factual Background

7. S.S. White Burs and Temple University restate and reallege the allegations set forth in paragraphs 1 through 6 and incorporate them by reference.

8. S.S. White is engaged in the design, manufacture, and sale of dental products including dental burs. The patent which forms the basis for this action relates to dental burs.

9. Temple University is a state-related research university with approximately 30,000 students. Temple University has a School of Dentistry whose original charter dates back to the nineteenth century.

10. Dr. Daniel W. Boston ("Dr. Boston") is the Chairman of the Department of Restorative Dentistry for the School of Dentistry at Temple University. Dr. Boston has been a recipient of the Carnell Professorship at Temple University which recognizes faculty members who have distinguished themselves in research, scholarship and teaching. Dr. Boston is a fellow of the College of Physicians of Philadelphia and the American College of Dentists. Dr. Boston's research has been published in many dental periodicals. Dr. Boston is the inventor of inventions

which have been granted three United States patents including U.S. Patent No. 6,257,889 which is the patent that forms the basis of this action.

COUNT I

(Patent Infringement)

11. S.S. White and Temple University hereby restate and reallege the allegations set forth in paragraphs 1 through 10 and incorporate them by reference.

12. On July 10, 2001, United States Letters Patent 6,257,889 (“ ‘889 patent”) entitled “Dental Bur and Method” was duly and legally issued to the Temple University, as assignee of the inventor Daniel W. Boston. A true and correct copy of the ‘889 patent is attached hereto and marked as Exhibit A.

13. S.S. White has obtained a worldwide exclusive license from Temple University of the rights to make, have made, use, sell, offer for sale and import products under the ‘889 patent.

14. Upon information and belief, Neo-Flo has directly, indirectly, contributorily, and/or by inducement infringed the ‘889 patent in violation of 35 U.S.C. §§271(a)-(c) in this judicial district and elsewhere in the United States and will continue to do so unless enjoined by this Court.

15. Neo-Flo has been, and is, infringing one or more claims of the ‘889 patent by selling, offering to sell, using, manufacturing, importing, causing to be manufactured, used, imported, sold and/or offered for sale, dental burs (including *inter alia* its “NEODIAMOND” – Model #1300FS products) covered by the ‘889 patent in the United States and this judicial district.

16. Neo-Flo has sold and delivered its “NEODIAMOND” burs in this judicial district.

17. The infringement by defendant Neo-Flo of the '889 patent has irreparably injured S.S. White and Temple University and will continue to do so unless enjoined by this Court.

18. With full knowledge of the '889 patent, the infringement of the '889 patent by Neo-Flo is and has been willful.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, S.S. White and Temple University, pray for judgment as follows:

- a. That defendant Neo-Flo has infringed United States Letters Patent 6,257,889;
- b. That defendant Neo-Flo and its respective agents, servants, officers, directors, employees, joint venturers and all persons acting in concert with them, directly or indirectly, be preliminarily and permanently enjoined from infringing, inducing others to infringe, or contributing to the infringement of United States Letters Patent 6,257,889;
- c. That defendant Neo-Flo be ordered to account for and pay to plaintiffs S.S. White and Temple University the damages to which S.S. White and Temple University are entitled as a consequence of infringement;
- d. That plaintiffs S.S. White and Temple University be awarded increased damages up to treble damages, prejudgment interest, and their costs, disbursements and attorney's fees herein in accordance with Title 35 U.S.C. §284 and §285; and
- e. That plaintiffs S.S. White and Temple University be awarded such other and further relief as the Court may deem just and equitable.

JURY DEMAND

The plaintiffs S.S. White and Temple University demand a jury trial on its cause of action for patent infringement as set forth in Count I.

Dated this 7th day of June, 2002.

COZEN O'CONNOR, P.C.

By: _____

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